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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,799	01/10/2002	Jun Seo	8750-018	8382

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1030 SW Morrison Street
Portland, OR 97205

EXAMINER

LEE, GRANVILL D

ART UNIT	PAPER NUMBER
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2825

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/044,799

Applicant(s)

SEO ET AL.

Examiner

Granvill D Lee, Jr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Response to Applicant's Argument***

After review of applicant's amendments and comments, the examiner finds such arguments unpersuasive. Applicant's comments as to Abernathey et al. are well taken, however in further review of the prior art, the examiner has found that Greco et al. read upon applicant's claimed invention. As these are new grounds for rejection necessitated by applicant's amended claimed invention, and they are to be considered final rejections of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10 and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Greco et al. (US Pat. 6,121,129).

In view of these claim, Greco et al. teaches a method for manufacturing a semiconductor device comprising, forming a gate stack

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(Fig. 4b #311) on a semiconductor substrate (#4) forming a gate spacer on sidewalls (#34) of the gate stack, wherein the gate spacer includes a top portion substantially lower than a top of the gate stack (#35) forming a blanket etching stop layer (#62) over the gate stack and semiconductor substrate and forming an interlayer insulating (#60) layer over the gate stack including the gate spacer.

In further view of claim 13, Greco et al. continues the device by forming a self-aligned contact hole (#61) with the interlayer insulating layer adjacent the gate stack (Col. 8 lines 15-20).

In continued view of claim 14, Greco et al. deposits a conductive material (#68) within the contact hole (Col. 40-44), and planarize the conductive material to form the contact pad.

Allowable Subject Matter

Claims 1-9 are allowed.

Response to the Applicant

The examiner believes the rejected claim 10, 11, and 12, further fails to mention the double etch-back feature of the etch-stop layer and the 400 angstrom difference between the spacer and top gate portion.

Final Action

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE

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FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications for the examiner should be directed to Granvill Lee whose telephone number is (571) 272-1897. The examiner can be normally reached on Monday, Wednesday, Thursday and Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are not successful, the examiner's supervisor, Matthew Smith can be reached on (571) 272-1907. The fax phone number for this group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
Granvill Lee
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G1
4/29/04

C. J. Lee
CANADIAN INVENTOR
PRIMARY EXAMINER